

Sumter City-County Board of Zoning Appeals

May 11, 2011

BOA-11-09, 9 Beaufain Drive (City)

The applicant is requesting a 5 foot variance from the rear setback requirement of 20 feet.



Appeals - Variance - Special Exception

Sumter City-County Zoning Board of Appeals

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BOA-11-09, 9 Beaufain Dr. (City)

I. THE REQUEST

Applicant: John D. Lee

Status of the Applicant: Property owner

Request: The applicant is requesting a 5 foot variance from the rear setback requirement of 20 feet

Location: 9 Beaufain Dr.

Present Use/Zoning: Residential// Planned Development

Tax Map Reference: 228-03-06-003

II. BACKGROUND

The owner, John D. Lee, proposes to build a screened porch addition (10'x16') to the back of his home at 9 Beaufain Dr., in Old Towne Landing Subdivision (Photo to the right shows front of home).

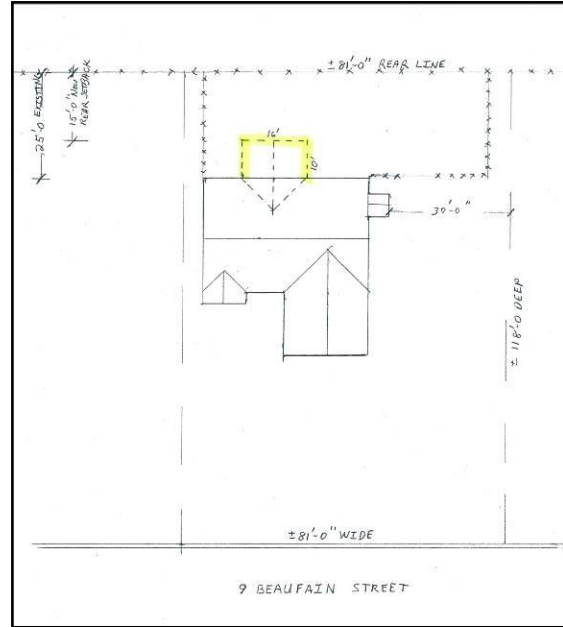
Old Towne Landing is a planned development (PD) with a required rear setback of 20 feet. PUD-94-04 was approved in February 1994.

The existing residence is built with a rear yard setback of 25 feet, and the proposed addition will be 10 feet in depth, so the variance requested for this property is 5 feet. There is a privacy fence installed around the entire rear perimeter of the property.





Above left: The rear of the property at 9 Beaufain Drive currently.



Above right: A sketch of the proposed addition to the home.

As with any variance request, Staff searches for a solution that meets the needs of the applicant and still remains consistent with the Ordinance. It does not appear feasible to add on to any other portion of the home, other than to the rear. The only other option is to not create an addition as proposed. One alternative is that the owner could request an amendment to the Old Towne Landing PD Ordinance in order to reduce the rear setback from 20 ft. to 15 ft. This action would require a public hearing and City Council final approval before taking effect. In order for a variance to be granted this request must be reviewed and approved by the Zoning Board of Appeals.

In order to grant a 5 ft. rear setback variance, the request must meet all parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

III. FOUR PART TEST

- 1) *There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

There are no extraordinary or exceptional conditions pertaining to this property. The parcel is of a similar size and shape to the adjacent parcels, and the home is situated on the parcel in the same manner as the surrounding properties.

2) *These conditions do not generally apply to other property in the vicinity.*

These conditions pertain to the adjacent and nearby properties.

3) *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

Application of the ordinance does not prohibit the use of this the property since there has been a residence built and occupied for a number of years. It does prevent any addition from being made to the house but all other houses in the development would be restricted in the same manner. The front yard setback has already been reduced from 35 feet to 20 feet with the rezoning to Planned Development in order to allow more buildable area. This variance could possibly lead to other similar requests for other lots which would comprise of a major revision to this Planned Development without this lot having something peculiar to set it apart from all of lots in the same development.

4) *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.*

Staff does not see any real detriment to surrounding properties or the public good. The rear yard of the property is not visible from the street or from the neighboring houses because of the tall privacy fence that completely encircles the rear of the property. There is a letter on file from neighbor to the rear with no opposition to this request.

IV. STAFF RECOMMENDATION

Staff recommends denial based on the fact that the proposal only meets the last item of the Four-Part Test.

V. DRAFT MOTIONS FOR BOA-11-09

- A. I move that the Zoning Board of Appeals deny BOA-11-09, subject to the findings of fact and conclusions contained in the draft order, dated May 11, 2011 attached as Exhibit 1.

B. I move that the Zoning Board of Appeals approve BOA-11-09.

C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-11-09.

VI. ZONING BOARD OF APPEALS – May 11, 2011

The Sumter City-County Board of Appeals at its meeting on Wednesday, May 11, 2011, voted to approve this request subject to the findings of fact and conclusions as shown on Exhibit 1.

Exhibit 1
Order on Variance Application
Board of Zoning Appeals

BOA-11-09, John D. Lee – 9 Beaufain Dr. (City)
May 11, 2011

Date Filed: May 11, 2011

Permit Case No. BOA-11-09

The Board of Zoning Appeals held a public hearing on Wednesday, May 11, 2011 to consider the appeal of John D. Lee of 9 Beaufain Dr. for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The PD, approved in February 1994, provided for a specific setback and Mr. Lee purchased the house in 2006.

2. The Board concludes that these conditions ☒ **do** - ☐ **do not** generally apply to other property in the vicinity based on the following findings of fact:

The adjacent properties are of the same size and shape as this parcel, and the houses are situated on these properties in the same layout.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:

The Old Towne Landing Subdivision Neighborhood Association gave official review and approval of this request.

4. The Board concludes that authorization of the variance ☐ **will** - ☒ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district ☐ **will** - ☒ **will not** be harmed by the granting of the variance based on the following findings of fact:

The granting of this variance will not be of detriment to adjacent properties or the public good, because the proposed addition will not be visible from either the street or the adjacent properties, due to the privacy fence that encircles the perimeter of the rear yard of the property. Letter on file from neighbor in the rear approving of the variance.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ **DENIED** –
☒ **GRANTED.**

Approved by the Board by majority vote.

Date issued:_____

Chairman

Date mailed to parties in interest:_____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.
